THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

&

THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

WP NO.24903 OF 2005

19-11-2007

Between:

N.Sasi Rekha and others

... Petitioners

and

Special Court under Land Grabbing
(Prohibition) Act, 1982,
BRKR Buildings, Tank Bund road,
Hyderabad, and others.

... Respondents

THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

&

THE HON'BLE SRI JUSTICE B. SESHASAYANA REDDY

WP NO.24903 OF 2005

ORDER: (per Sri GM,J)

This writ petition is filed assailing the judgment dated 23-8-2005 passed in LGA No.21 of 2003 in so far it pertains to the order of the Judicial Member of the 1st respondent-Special Court, under AP Land Grabbing (Prohibition) Act, 1982 (for short, 'the Act').

2. The facts stated are that the petitioners' father (since deceased) filed LGOP No.1276 of 1996 on the file of Special Tribunal under the Act against the unofficial respondents 2 and 3 herein to declare them as land grabbers on the allegation that they have grabbed land in an extent of 90 Sq. yards situated in Sy.No.1 of Hasmathpet Village, Vallabhnagar Mandal, Ranga Reddy District. The said LGOP filed by the petitioners was dismissed by order dated 24-3-2003 by the Special Tribunal, holding that Ex.A-2 Patta Certificate issued by the Mandal Revenue Officer, Balanagar, in favour of the father of the petitioners was cancelled under Ex.R-6 by the Revenue Divisional Officer, Chevella, by order dated 28-7-1997 and that order remained

unchallenged by the petitioners' father, the petitioners cannot be held to be the owners of the land in question and therefore they cannot seek to declare the respondents 2 and 3 as land grabbers. Aggrieved thereby, the petitioners carried the matter in appeal LGA No.21 of 2003 before the 1st respondent-Special Court under the Act.

3. In appeal, by the impugned judgment, the two-member Bench of

1st respondent-Special Court, differed in their decision. While the Judicial Member affirmed the findings of the Special Tribunal under the Act in dismissing the LGOP to the effect that the respondents are not land grabbers within the meaning prescribed in the Act, the Revenue Member reversed the findings of the Special Tribunal and held that proceedings are maintainable against the respondents since the proceedings under Ex.R-6 issued by the Revenue Divisional Officer, Chevella, cancelling the Patta Certificate issued under Ex.A-2, was passed when the matter was pending before the Special Tribunal and accordingly remitted the matter to the Special Tribunal for fresh disposal in accordance with law. As both members of the Bench, differed in their views, the matter was referred to the Chairman-I Court for its decision and as the Chairman-I Court was not functioning, order passed by the Judicial Member was directed to be prevailed over the order passed by the Revenue Member.

4. When the matter is taken up for hearing, learned counsel for the petitioners stated that now Chairman has been appointed to preside over the 1st respondent-Special Court, and as such the writ petition can be disposed of to enable the Chairman of the 1st respondent-Special Court to decide the matter. Learned counsel also submitted that the order of the Judicial Member has the effect of overruling the order of the Revenue Member of the

1st respondent-Special Court, hence that portion of the order of the Judicial Member be set aside till the Chairman of 1st respondent-Special Court decides the case.

5. The Judicial Member in his order itself observed that since the Chairman is not appointed, till the appointment of the Chairman, his order will prevail and now that the Chairman is appointed, that portion of the order will become inoperative when once the matter is placed before the Chairman of 1st respondent-Special Court. In these circumstances,

without going into the merits or otherwise of the matter, we dispose of the writ petition, at the admission stage itself by remitting the matter to the Chairman-1st respondent Special Court, for disposal in accordance with law.

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Ghulam Mohammed, J

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B. Seshasayana Reddy, J

Dated: 19th November, 2007
Nrg.